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Approved for use through 07/31/2006. OMB 0651-0031  
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
432383600013

First named inventor: Levergood et al.

Application No.: 09/005,479

Art Unit: 2145

Filed: January 12, 1998

Examiner: Patrice Winder

Title: INTERNET SERVER ACCESS CONTROL AND MONITORING SYSTEMS

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

- ☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of an RCE (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.  
☐ has been paid previously on \_\_\_\_\_.  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

01/10/2006 EAREGAY1 00000002 501432 09005479

01 FC:1453 1500.00 DA

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

*David Cochran*  
Signature

January 5, 2006

Date

David B. Cochran, Esq.

Typed or printed name

39,142

Registration Number, if applicable

Jones Day

Address

216/586-7029

Telephone Number

North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: RCE: Petition and Extension Fee Payment**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

January 5, 2006

Date

*Suzanne Koston*  
Signature  
Suzanne Koston

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Levergood, et al.  
TITLE : Internet Server Access Control and  
Monitoring System  
SERIAL NO. : 09/005,479  
FILING DATE : January 12, 1998  
EXAMINER : Patrice L. Winder  
GROUP ART UNIT : 2155  
ATTORNEY DOCKET NO. : 432383-600013

Statement in Support of Petition to Revive Application

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

I hereby certify that this correspondence  
is being deposited today with the United  
States Postal Service as first class mail in  
an envelope addressed to: Commissioner for  
Patents, P.O. Box 1450, Alexandria, VA  
22313-1450

on January 5, 2006  
By: Patrice L. Winder

This statement by the attorney of record is submitted in support of the petition to revive  
this application for unintentional abandonment under 37 C.F.R. § 1.137(b).

Applicants first became aware that this application was considered to be abandoned by  
the U.S.P.T.O on November 23, 2005, during an interview between the attorney of record, Mr.  
Cochran, and Examiner Patrice Winder. (See, Interview Summary dated November 23, 2005,  
Tab A hereto) Prior to November 23, 2005, the status of this application was unknown to the  
Applicants, and also to Examiner Winder.

A notice of appeal was filed in this application on September 30, 2004, by the prior attorney of record, Mr. Peter Zura (Reg. No. 48,196). At the same time that this notice of appeal was filed, Mr. Zura contacted Examiner Winder to discuss the final office action, the advisory action and a declaration under 37 C.F.R. § 1.131 that had been submitted by the applicants to overcome the reference applied in the final office action. During a prior interview, Examiner Winder had suggested that if the declaration were supplemented to provide additional evidence of reduction to practice that it would likely be considered to overcome the reference cited in the final office action. (See, Interview Summary Record dated September 13, 2004, Tab B) A supplemental 1.131 declaration was submitted by Mr. Zura on September 30, 2004, along with the notice of appeal. Mr. Zura believed that Examiner Winder would consider this supplemental evidence and either issue a notice of allowance or another office action.

Following these submissions, no action was taken by Examiner Winder on the application. Mr. Zura contacted Examiner Winder on numerous occasions to inquire about the status of the application and to confirm that the final rejections would be withdrawn in view of the supplemented declaration. During these conversations, Examiner Winder indicated that certain delays in the IFW system were preventing her from considering the application. On the basis of these numerous interviews, conversations and understandings regarding the final office action and the supplemented declaration, Mr. Zura did not file an appeal brief in response to the notice of appeal filed on September 30, 2004. These facts are memorialized in a paper submitted by Mr. Zura on April 29, 2005, Tab C, hereto, which resulted from a telephone conference with Examiner Winder in which she requested that Mr. Zura file said paper.

Responsibility for this application was transferred from Mr. Zura to Mr. Cochran, the present attorney of record, around the end of May, 2005. Mr. Cochran immediately reviewed the

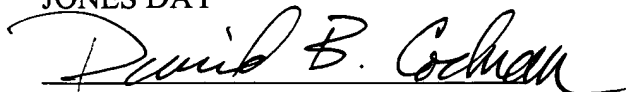
file, noted that the appeal brief had not been filed by the due date of April 30, 2005, and contacted Examiner Winder to discuss the status of the case. At that time Examiner Winder was unable to determine the status of the application, again due to certain delays in the IFW system process for scanning the file.

As noted in the Interview Summary dated November 23, 2005, Mr. Cochran proceeded to diligently and consistently contact Examiner Winder in order to determine the status of the application. For several months Examiner Winder was unable to determine the status of the application. Finally, Mr. Cochran suggested that Examiner Winder contact an SPE in order to get assistance in determine the case status, which she did some time in November, 2005. The result of this consultation was that Examiner Winder determined that the U.S.P.T.O considered the case to be in an abandoned status and she communicated that information to Mr. Cochran during the November 23, 2005 interview.

The above facts demonstrate that at all times the Applicants and their attorneys-of-record have made *bona fide* attempts to continue to prosecute this application, and that the application was unintentionally abandoned. Therefore, the petition to revive should be granted.

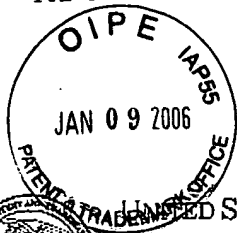
Respectfully submitted,

JONES DAY

A handwritten signature in dark ink, appearing to read "David B. Cochran", written over a horizontal line.

David B. Cochran  
(Reg. No. 39,142)

Jones Day  
North Point, 901 Lakeside Avenue  
Cleveland, Ohio 44114  
(216) 586-7506



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
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# Fax Cover Sheet

Date: 13 Dec 2005

|  |                                |
|--|--------------------------------|
| To: Dave Cochran                       | From: Patrice Winder           |
| Application/Control Number: 09/005,479 | Art Unit: 2145                 |
| Fax No.: 216-579-0212                  | Phone No.: 571-272-3935        |
| Voice No.: 216-586-7029                | Return Fax No.: (571) 273-8300 |
| Re:                                    | CC:                            |

☐ Urgent ☐ For Review ☐ For Comment ☐ For Reply ☒ Per Your Request

Comments:

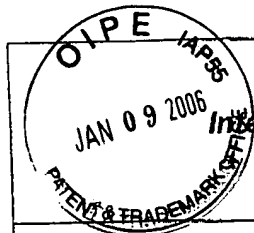
Interview Summary from November 23, 2005.

Number of pages 4 including this page

## STATEMENT OF CONFIDENTIALITY

This facsimile transmission is an Official U.S. Government document which may contain information which is privileged and confidential. It is intended only for use of the recipient named above. If you are not the intended recipient, any dissemination, distribution or copying of this document is strictly prohibited. If this document is received in error, you are requested to immediately notify the sender at the above indicated telephone number and return the entire document in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450



# Interview Summary

Application No.

09/005,479

Applicant(s)

LEVERGOOD ET AL.

Examiner

Patrice Winder

Art Unit

2145

All participants (applicant, applicant's representative, PTO personnel):

(1) Patrice Winder.

(3) \_\_\_\_\_

(2) Dave Cochran.

(4) \_\_\_\_\_

Date of Interview: 23 November 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: Affidavit filed with Notice of Appeal.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

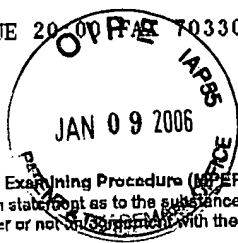
(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Patrice Winder

Examiner's signature, if required



## Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

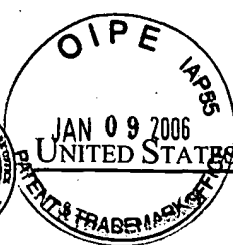


Continuation Sheet (PTOL-413)

Application No. 09/005,479

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Cochran requested the status of the application. The examiner stated that she was not sure what the PTO considered the status of the application because an affidavit which was filed with the Notice of Appeal had not been considered. Ms. Winder promised to talk with SPE, etc. to determine the status. She also acknowledges that Mr. Cochran has been diligently and consistently requesting the status of the application since taking over prosecution of the application, about June 2005. She reminded Mr. Cochran she had been unable to give a timeline for considering the affidavit because it did not reappear on her docket. (Note: the docket reflects the applications expecting a response from the examiner each bi-week) .

1



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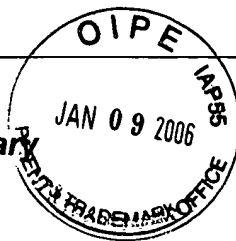
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
|--|-------------|-----------------------|-------------------------------|------------------|
| 09/005,479   | 01/12/1998  | THOMAS MARK LEVERGOOD | OMI95-01A                     | 2543             |
| 24573  | 7590        | 09/13/2004            |                               |                  |
| BELL, BOYD & LLOYD, LLC<br>PO BOX 1135<br>CHICAGO, IL 60690-1135 |             |                       |                               |                  |
|  |             |                       | EXAMINER<br>WINDER, PATRICE L |                  |
|  |             |                       | ART UNIT                      | PAPER NUMBER     |
|  |             |                       | 2145                          |                  |

DATE MAILED: 09/13/2004

39

Please find below and/or attached an Office communication concerning this application or proceeding.

# Interview Summary



Application No.

09/005,479

Applicant(s)

LEVERGOOD ET AL.

Examiner

Patrice Winder

Art Unit

2145

All participants (applicant, applicant's representative, PTO personnel):

(1) Patrice Winder.

(3) \_\_\_\_\_.

(2) Jeffrey Canfield.

(4) \_\_\_\_\_.

Date of Interview: 22 July 2004.

Type: a) ☐ Telephonic b) ☐ Video Conference

c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 3,5-26,31-43,49-63,67-93,96-98,100-106,108-115.

Identification of prior art discussed: Kahan.

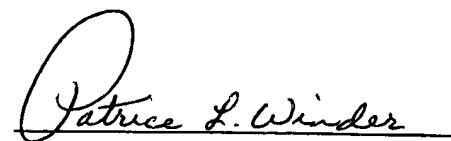
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

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Examiner's signature, if required

## Summary of Record of Interview Requirements



### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

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- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
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(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
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Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: This interview followed the interview for 09/548,235, 09/548,237 and 09/580,916. Again, it was assumed that the agreements reached concerning the affidavits would be applicable to this application. Thus, all the issues of the present application were resolved in the previous discussion.

The following is a summary of the prior interview (09/548,235) concerning the affidavits.

Applicant initiated the interview; the purpose of the interview in general was reduce the issues associated with the application. The following is a summary of the points raised by applicant's representative Jeffrey Canfield.

First, we discussed the rejection of applicants 1.131 affidavit that was rejected by the examiner in the previous office action. The examiner explained that in order to "use reduction to practice" in affidavit then applicant would need to provide evidence of the reduction to practice. Applicant asked whether the examiner would consider the computer program code included in the disclosure as evidence. The examiner responded that it could be considered if applicant was able to point relevant modules of being relied upon as evidence .



**THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Levergood et al.  
Appl. No.: 09/005,479  
Conf. No.: 2543  
Filed: January 12, 1998  
Title: INTERNET SERVER ACCESS CONTROL AND MONITORING SYSTEMS  
Art Unit: 2155  
Examiner: Patrice L. Winder  
Docket No.: 115274-021

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUPPLEMENTARY RESPONSE AFTER FINAL REJECTION PURSUANT TO 37  
C.F.R. §1.116**

Sir:

The present remarks are in response to the Advisory Action dated September 27, 2004, and supplement the response filed on September 30, 2004. In the response, Applicants submitted a declaration by George Winfield Treese that swears behind the *Kahan* reference.

When the response dated September 30, 2004 was filed, a telephonic interview was conducted with the Examiner in a bona fide attempt to advance prosecution of the application, and where the contents of the affidavit were discussed. It was agreed during the Interview that the affidavit would overcome the cited documents. Furthermore, as the Advisory Action was mailed only 3 days before the statutory bar date, Applicants filed a Notice of Appeal to maintain pendency of the Application.

However, since that time, no action has been taken by the USPTO on the merits of the application. It was further learned through numerous telephone discussions with the Examiner, that EFW delays were preventing the application from being considered. To date, Applicants have not filed an Appeal Brief in reliance on the aforementioned telephonic interviews that assured Applicants that the rejection would be withdrawn.

Applicants maintain that the declaration of George Winfield Treese overcomes the cited documents, and provides sufficient evidence of conception and diligent reduction to practice to support the §1.131 affidavit. In the telephonic interview conducted April 28, 2005, the Examiner

requested Applicants to submit these remarks to memorialize the contents of the aforementioned discussions.

In light of these extraordinary circumstances, Applicants respectfully and earnestly request a prompt examination on the merits. The current delays by the USPTO have caused Applicant to unnecessarily absorb fees, and may potentially prejudice the application as a whole.

If there are any remaining issues the Examiner is encouraged to call Applicants' attorney, Peter Zura at (312) 807-4208 in order to facilitate a speedy disposition of the present case. If any additional fees are required in connection with this response they may be charged to deposit account no. 02-1818.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY

  
Peter Zura

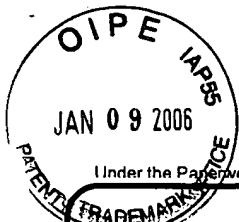
Reg. No. 48,196

P.O. Box 1135

Chicago, Illinois 60690-1135

Phone: (312) 807-4208

Dated: April 29, 2005



PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

1500.00

**Complete if Known**

|                      |                  |
|----------------------|------------------|
| Application Number   | 09/005479        |
| Filing Date          | 1/12/1998        |
| First Named Inventor | Levergood et al. |
| Examiner Name        | Patrice Winder   |
| Art Unit             | 2145             |
| Attorney Docket No.  | 432383600013     |

**METHOD OF PAYMENT** (check all that apply)☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 501432 Deposit Account Name: Jones Day

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, **except for the filing fee**☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES |                       | SEARCH FEES |                       | EXAMINATION FEES |                       | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
|                  | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)         | Small Entity Fee (\$) |                |
| Utility          | 300         | 150                   | 500         | 250                   | 200              | 100                   |                |
| Design           | 200         | 100                   | 100         | 50                    | 130              | 65                    |                |
| Plant            | 200         | 100                   | 300         | 150                   | 160              | 80                    |                |
| Reissue          | 300         | 150                   | 500         | 250                   | 600              | 300                   |                |
| Provisional      | 200         | 100                   | 0           | 0                     | 0                | 0                     |                |

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

| Fee (\$) | Small Entity Fee (\$) |
|----------|-----------------------|
| 50       | 25                    |

Each independent claim over 3 (including Reissues)

|     |     |
|-----|-----|
| 200 | 100 |
|-----|-----|

Multiple dependent claims

|     |     |
|-----|-----|
| 360 | 180 |
|-----|-----|

| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|----------|---------------|
| - 20 or HP = | x            | =        |               |

HP = highest number of total claims paid for, if greater than 20.

| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|---------------|--------------|----------|---------------|
| - 3 or HP =   | x            | =        |               |

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|--|----------|---------------|
| - 100 =      | / 50 =       | (round up to a whole number) x                   | =        |               |

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge): Petition for Revival Under 37 CFR 1.137(b)\$1500.00**SUBMITTED BY**

|                   |                        |                                   |        |           |                 |
|-------------------|------------------------|-----------------------------------|--------|-----------|-----------------|
| Signature         | <u>David Cochran</u>   | Registration No. (Attorney/Agent) | 39,142 | Telephone | (216) 586-3939  |
| Name (Print/Type) | David B. Cochran, Esq. |                                   |        | Date      | January 5, 2005 |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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